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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 9th November, 1971/Kartika 18, 1893 (Saka)

THE MOTOR VEHICLES (REQUISITIONING AND CONTROL) ORDINANCE, 1971

No. 23 OF 1971

Promulgated by the President in the Twenty-second Year of the Republic of India.

An Ordinance to provide for the requisitioning of motor vehicles, and controlling their use, in certain emergent circumstances, and for matters connected therewith.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title, extent and commencement.

1. (*1*) This Ordinance may be called the Motor Vehicles (Requisitioning and Control) Ordinance, 1971.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "competent authority" means the Central Government or the State Government or any person appointed by the Central Government or the State Government to exercise the powers of competent authority under any provisions of this Ordinance;

(*b*) "motor vehicle" has the same meaning as assigned under clause (*18*) of section 2 of the Motor Vehicles Act, 1939; 4 of 1939.

(*c*) "owner" includes, where the person in possession of a motor vehicle is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase agreement, the person in possession of the vehicle under that agreement;

(*d*) "prescribed" means prescribed by rules made under this Ordinance.

Power to requisition motor vehicles.

3. (*1*) If in the opinion of the competent authority it is necessary or expedient so to do for securing the defence of India and civil defence, the public safety, the maintenance of services and supplies essential to the life of the community or the relief of distress caused by influx of refugees, serious draught, flood, fire or any other natural calamity, the competent authority may, by order in writing, requisition any motor vehicle and may make such further orders as appear to it to be necessary or expedient in connection with the requisition.

(*2*) Where the competent authority has requisitioned any motor vehicle under sub-section (*1*), it shall vest in the Government for the period of the requisition and the Government may use or deal with it in such manner as may appear to it to be expedient.

(*3*) Without prejudice to any powers otherwise conferred by this Ordinance, any person authorised by a competent authority may enter any premises and inspect any motor vehicle therein or thereon for the purpose of determining whether, and, if so, in what manner, any order under this section should be made in relation to such motor vehicle, or with a view to securing compliance with any order made under this section.

Release from requisition.

4. (*1*) The competent authority may, at any time release from requisition any motor vehicle requisitioned under section 3 and shall, as far as possible, restore the motor vehicle in as good a condition as it was when possession thereof was taken, subject only to the changes caused by reasonable wear and tear.

(*2*) Where any motor vehicle is to be released from requisition, the competent authority may, after such enquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing to whom possession of the motor vehicle shall be given.

(*3*) The delivery of possession of the requisitioned motor vehicle to the person specified in the order made under sub-section (*1*) shall be a full discharge of the Government from all liability in respect of such motor vehicle and the requisition shall be at an end:

Provided that nothing in this section shall prejudice any rights in respect of the motor vehicle which any other person may be entitled to by due process of law to enforce against the person to whom the possession of the motor vehicle is so delivered.

(4) Where the person to whom the possession of any requisitioned motor vehicle is to be given cannot be found and has no legal agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the motor vehicle is released from requisition to be published in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the motor vehicle specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claims in respect of the motor vehicle for any period after the said date.

Compensation for requisitioning of motor vehicles.

5. The compensation payable in respect of requisitioning of any motor vehicle shall be the sum total of the following items:—

(*i*) interest on the cost at which the owner had purchased the motor vehicle calculated in a manner and at a rate, not being below three per cent. or above six per cent. per annum, that may be prescribed for all or any class of motor vehicles:

Provided that where the motor vehicle has been obtained by the owner as a gift or its cost cannot be established by him to the satisfaction of the competent authority or its cost exceeds the current replacement price of the motor vehicle, the current price of the same motor vehicle or motor vehicle which, in the opinion of the competent authority, is substantially similar to it, shall be taken to be its cost;

(*ii*) an amount representing depreciation of the motor vehicle during the period of its requisition calculated at a rate not exceeding thirty per cent. per annum and in a manner that may be prescribed for all or any class of motor vehicles;

(*iii*) an amount for the loss of the use of the motor vehicle or of any profits that might have been earned but for the requisition, at such percentage, not being less than three per cent. per annum, as may be prescribed of the cost referred in clause (*i*) above as reduced by the depreciation calculated at the same rate as for clause (*ii*) above in such manner and for such period as may be so prescribed;

(*iv*) any further amount that the Central Government may by general or special order specify:

Provided that if during the period of requisition the motor vehicle is damaged otherwise than by normal wear and tear or lost at a time when it is not insured, there shall be paid to the owner additional compensation of a sum equal to the cost of making good the damage or, in the case of a total loss, a sum equal to the compensation that may be payable if the motor vehicle is acquired on the date of the loss, such compensation being determined in the manner prescribed:

Provided further that the owner shall have the right to appeal to the Compensation Tribunal hereinafter provided, within thirty days of the receipt of the order of the competent authority assessing the compensation or within such further period as the Tribunal may, for sufficient cause, allow, in such form and manner as may be prescribed.

Compensation Tribunal.

6. (*1*) The Central Government shall by notification appoint a Compensation Tribunal for such area as may be specified in the notification to exercise the functions conferred on the Compensation Tribunal by the provisions of this Ordinance.

(*2*) The Compensation Tribunal shall consist of,—

(*i*) a person who has for at least ten years either held a judicial post or been in practice as an Advocate of a High Court, and

(*ii*) a person who has for at least ten years been in the practice of accountancy as a Chartered Accountant under the Chartered Accountants Act, 1949, or as a registered accountant under any law previously in force, or partly as a registered accountant and partly as a chartered accountant, or any person who has had, in the opinion of the Central Government, adequate experience of a character which renders him suitable for appointment to the Tribunal. 37 of 1949.

(*3*) If the members of a Tribunal constituted for any area differ in their assessment of the compensation payable to the owner of a motor vehicle, the case shall be referred by the Central Government to a member of a Tribunal constituted for any other area and it shall be decided according to the assessment made by him.

(*4*) The orders passed by the Compensation Tribunal on appeal shall be final.

(*5*) The Compensation Tribunal shall have all the powers of a Civil Court for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the discovery and production of documents and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898. 5 of 1898.

(*6*) The Central Government may, by rules—

(*a*) prescribe the procedure to be followed by the Compensation Tribunal in proceedings under this section; and

(*b*) make provision generally for carrying into effect the provisions of this section.

Payment of compensation.

7. The compensation determined by the competent authority for requisitioning any motor vehicle shall be paid within such period, at such intervals and in such manner as may be prescribed:

Provided that where payment of the compensation is delayed beyond the period so prescribed, interest shall be payable on the amount or part of the amount in arrear at such rate not being below three per cent. or above six per cent. per annum and with effect from such date or dates as may be prescribed.

Power to require information.

8. A competent authority may, with a view to requisitioning any motor vehicle or taking any other action with respect thereto in pursuance of the provisions of this Ordinance, by order in writing,

(*i*) require any person to submit to it, within such time or at such intervals as may be specified in the order, such information and documents in his possession relating to the motor vehicle as may be

so specified, being information and documents reasonably necessary for carrying into effect the provisions of this Ordinance;

(*ii*) direct that the owner or person in charge of the motor vehicle shall not without the permission of the competent authority dispose of it, or remove it from the premises in which it is kept, till the expiry of such period as may be specified in the order.

Penalty for contravention of orders.

9. If any person contravenes any order made under section 3 or section 8, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Control of motor vehicles.

10. (*1*) If in the opinion of the Government it is necessary or expedient so to do for securing the defence of India and civil defence, the public safety, the maintenance of services and supplies essential to the life of the community, or the relief of distress caused by influx of refugees, serious draught, flood, fire or any other natural calamity, the Government may without prejudice to other provisions of this Ordinance, by general or special order, in such area and for such period as may be specified in the order,—

(*a*) regulate, restrict or give directions with respect to, the use of any motor vehicle for the purpose of road transport, or the sale or purchase of any such vehicle;

(*b*) require any person owning, or having in his possession or under his control, any motor vehicle (hereafter in this section referred to as "the said person") to make to any person specified in this behalf a return giving such particulars as may be specified in the order with regard to such vehicle and require such return to be verified in such manner as may be specified therein;

(*c*) require the said person to give notice in such manner as may be specified in the order before disposing of the motor vehicle or allowing it to pass out of his possession or control;

(*d*) require the said person, or any person employed in connection with any motor vehicle, to comply with any directions given by any person specified in, or duly authorised in pursuance of, the order; and such directions may require the said person or such employed person to use the vehicle for the conveyance of such persons or goods at such time and by such routes as may be set forth in the directions;

(*e*) prescribe the conditions subject to which, and the rates at which any motor vehicle may be hired for the purpose of road transport and persons or goods may be carried by road, and the conditions subject to which goods so carried or to be carried may be discharged or loaded;

(*f*) provide for the giving of directions with respect to the carriage of persons or goods on any particular motor vehicle, or by any particular route, or to any particular clearing house or depot;

(*g*) provide for the regulation of the priority in which persons and goods are to be carried by road and vehicles are to be used for the purpose of road transport;

(*h*) make such other provisions in relation to road transport as appear to the Government to be necessary or expedient.

(2) If any police officer or any other person authorised by the Government in this behalf has reason to believe that any motor vehicle is or is kept, in or upon any building, land or other premises, or is being used by any person in contravention of an order made under sub-section (1), such officer or person may—

(a) enter and search any such premises, and seize any motor vehicle found which he suspects to be therein or thereon in contravention of the order;

(b) stop such person and seize any motor vehicle which is being used in contravention of the order.

(3) If any person contravenes any order made in pursuance of this section, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Service of orders and notices.

11. Save as otherwise expressly provided in this Ordinance, any order made or notice issued under the provisions of this Ordinance shall be deemed to have been served on the owner of a motor vehicle if it is served on the person having possession or control of that vehicle.

Delegation of powers.

12. The Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on that Government by any of the provisions of this Ordinance (except the power to make rules) shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged also by such officer or class of officers as may be so specified.

Protection of action taken.

13. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or omitted to be done in pursuance of this Ordinance or any rules or orders made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or omitted to be done in pursuance of this Ordinance or any rules or orders made thereunder.

Power to make rules.

14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which, and the rate at which, interest, depreciation or the amount for the loss of the use of a motor vehicle, is to be calculated for the purposes of clause (*i*), clause (*ii*) or clause (*iii*) of section 5, as the case may be;

(b) the principles to be followed in determining the amount of compensation in the case of a total loss of a motor vehicle;

(c) the form of, and the manner in which, an appeal may be preferred to the Compensation Tribunal;

(*d*) the method of payment of compensation and the computation of interest payable on the amount of compensation under section 7;

(*e*) any other matter which has to be or may be prescribed.

(*3*) Every rule made under this Ordinance shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

V. V. GIRI,
President.

N. D. P. NAMBOODIRIPAD,
Joint Secy. to the Govt. of India.

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